

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

REX WARNER,  
Plaintiff,

v.

SIMS METAL MANAGEMENT LIMITED,  
Defendant.

Case No. 13-cv-02190-JD

**ORDER TO SHOW CAUSE**

Plaintiff Rex Warner brought this action against defendant Sims Metal Management Ltd., asserting claims for (1) breach of contract; (2) common counts; (3) conversion; (4) violation of California Labor Code § 6310; (5) wrongful termination; (6) breach of covenant of good faith and fair dealing; and (7) age discrimination. Sims has counterclaimed for (1) an accounting; (2) conversion; and (3) fraud by intentional misrepresentation.

The pretrial conference in this case is scheduled for November 12, 2014, and trial is scheduled for November 24, 2014. *See* ECF No. 43. Under the Court's Standing Order for Civil Trials, Warner was required to serve his oppositions to Sims's motions in limine by October 11, 2014. According to Sims, Warner not only failed to do so on time, but still has not served oppositions to any of the motions in limine. *See* ECF No. 49-1, Declaration of Douglas G.A. Johnston ¶ 5.

Moreover, the same standing order requires the parties to meet and confer in advance of the pretrial filings deadline -- here, October 15, 2014 -- regarding joint pretrial statements, motions in limine, proposed jury instructions, voir dire questions, verdict forms, witness lists, and exhibit lists. According to Sims, Warner has not communicated with Sims about any of these filings despite Sims's efforts to reach out to him. *Id.* ¶ 11. The pretrial filings deadline has now passed, and Warner has not filed any of the required pretrial documents, either jointly with Sims or on his

own.

The Court schedules a hearing on the order to show cause for Thursday, October 30, 2014, at 1:00 pm, at which time the Court expects Warner to explain, based on good cause, why he has failed to follow the Court's pretrial order. The Court will also discuss whether and to what extent Warner's default results in waiver of any challenges or objections to the opposing party's pretrial filings. The Court advises Warner that any further defaults or failure to appear at the hearing will result in dismissal of the action.

**IT IS SO ORDERED.**

Dated: October 22, 2014



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JAMES DONATO  
United States District Judge

United States District Court  
Northern District of California